United Nations CERD/C/MUS/CO/20-23

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twentieth to twenty-third periodic reports of Mauritius*

1. The Committee considered the combined twentieth to twenty-third periodic reports of Mauritius (CERD/C/MUS/20-23), submitted in one document, at its 2658th and 2659th meetings (CERD/C/SR.2658 and 2659), held on 14 August and 15 August, 2018. At its 2671st meeting (CERD/C/SR.2671), held on 24 August 2018, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined twentieth to twenty-third periodic report of the State party, which included some responses to the concerns raised by the Committee in its previous concluding observations (CERD/C/MUS/CO/15-19). The Committee also expresses its appreciation for the constructive dialogue with the State party's high-level delegation and for the additional written information provided thereafter.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following measures:

(a) The Government programme for the period 2015–2019, which provides for reforms within the judiciary and aims at expediting the processing of court cases;

(b) The creation of a new Ministry dedicated to human rights in September 2017, under which a national mechanism for reporting and follow-up has been set up to address recommendations made by United Nations human rights mechanisms;

(c) The amendment to the Equal Opportunities Act in 2017, which prohibits discrimination in access to employment on the grounds of a criminal record;

(d) The passage of the Constitution (Declaration of Community) (Temporary Provisions) in 2014, which provided that candidates for the 2014 elections were not obliged to declare the community they belonged to;

(e) The adoption of the Guidelines for Employers (2013) under section 27 (3) (f) of the Equal Opportunities Act, requiring employers with more than 10 employees to draw up and implement an equal opportunity policy.

* Adopted by the Committee at its ninety-sixth session (6–30 August 2018).

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C. Concerns and recommendations

Legal status of the Convention

4. The Committee regrets that the rights enshrined in the Convention are still not fully incorporated into the State party's legal domestic order. It is also concerned about the limited number of court cases in which the provisions of the Convention were invoked in, or applied by, domestic courts (art. 1).

5. **The Committee recommends that the State party take all necessary measures to ensure that the Convention is fully incorporated into the State party's domestic legal order. It also recommends that the State party take steps to ensure that judges, prosecutors and lawyers are trained on the provisions of the Convention in order to enable them to apply it in relevant cases. The Committee requests the State party to include in its next periodic report specific information on cases of application of the Convention by domestic courts and access by individuals to remedies on violations of rights contained in the Convention.**

Disaggregated data

6. The Committee regrets the State party's persistent position of not collecting data disaggregated by ethnicity, which in the view of the Committee impedes assessment of the enjoyment of human rights by the different ethnic groups present in the State party (art. 1).

7. **Bearing in mind the guidelines for reporting under the Convention (see CERD/C/2007/1, para. 7) and recalling its general recommendation No. 24 (1999) concerning article 1 of the Convention, the Committee recommends that the State party provide statistics, disaggregated by sex, on the socioeconomic situation and representation in education, employment, health, housing and political life of ethnic groups, including Creoles, Chagossians, people of African descent and migrant workers, in order to provide it with an empirical basis to evaluate the equal enjoyment of rights under the Convention.**

National human rights institution

8. The Committee is concerned about reported challenges faced by the National Human Rights Commission, in particular concerning the appointment and removal of commissioners (art. 2).

9. **The Committee recommends that the State party ensure that the process related to the selection, appointment and removal of commissioners is independent, fair and transparent. The State party should also allocate sufficient human and financial resources to the National Human Rights Commission to enable it to discharge its role in a comprehensive and efficient manner. The Committee refers the State party to its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention.**

Equal Opportunities Act, Commission and Tribunal

10. Considering the intersectionality between ethnicity and language in the context of the composition of the State party's population, the Committee is concerned that the Equal Opportunities Act still does not prohibit discrimination on the grounds of language and that a provision on special measures continues to be absent from the Act. It is also concerned (a) about the reported interference by the executive in the appointment of commissioners to the Equal Opportunities Commission; (b) that the Commission has no jurisdiction to investigate complaints against civil servants; and (c) that sanctions handed down by the Equal Opportunities Tribunal are not commensurate with the gravity of the offences (arts. 1, 2 and 4).

11. **The Committee recommends that the State party revise the Equal Opportunities Act, with a view to including language among the prohibited grounds of discrimination and introducing a legal provision on special measures aimed at accelerating the full and equal enjoyment of rights by disadvantaged groups, taking**

into account its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention. The Committee also recommends that the process for the appointment, security of tenure and removal of commissioners is timely, impartial and independent from the executive. Furthermore, the State party should take steps, including legislative measures, to empower the Equal Opportunities Commission to investigate complaints against civil servants and ensure that sanctions handed down by the Equal Opportunities Tribunal comply with the requirements of article 4 of the Convention.

Classification of the population

12. While noting the explanations provided by the delegation concerning the "best loser" system, the Committee is concerned about the persistent constitutional classification of the State party's population, which does not fully reflect the identities of the various groups present in the State party (arts. 1 and 4).

13. **The Committee reiterates its previous recommendation (CERD/C/MUS/CO/15-19, para. 15) to hold countrywide consultations in order to bring about a change of the existing classification of groups, including in the Constitution, giving due account to the principle of self-identification and the Committee's general recommendation No. 8 (1990) concerning the interpretation and application of article 1 (1) and (4) of the Convention.**

Inter-ethnic relations

14. The Committee appreciates the State party's efforts to foster harmony among the different components of society. It expresses concern, however, that hierarchal structures along ethnic and caste lines linger in the State party, although such systems are not recognized by law, and race, ethnic origin and caste are prohibited grounds of discrimination under the State party's Constitution (arts. 4 and 7).

15. **The Committee recommends that the State party intensify its efforts to foster an inclusive society that cherishes diversity and equality, and put an end to any manifestations that pertain to racial or caste-based superiority, or any other grounds that are prohibited under the Convention. To that end, the State party should also undertake awareness-raising campaigns and educational programmes aimed at showcasing the contribution of each ethnic group to the development of the State party's society, while engaging all necessary stakeholders, including the Government, equality bodies, community and religious leaders, the education system, civil society actors and the media.**

Truth and Justice Commission

16. The Committee applauds the State party for having initiated the Truth and Justice Commission, which demonstrates a commitment to addressing the lingering legacies of slavery and indentured servitude linked to the colonial era. It remains, however, concerned that the bulk of the recommendations put forward by the Commission in 2011 are yet to be implemented.

17. **The Committee recommends that the State party take effective measures to implement the recommendations of the Truth and Justice Commission, including those concerning the establishment of an intercontinental slavery museum and addressing all land dispossession and ownership claims, with a view to fostering reconciliation and achieving transitional justice. The State party should also consider establishing a well-resourced body, comprising representatives of the Government, equality and human rights bodies, civil society organizations and the communities concerned, to monitor the implementation of those recommendations.**

Complaints of racial discrimination

18. The Committee is concerned about the limited number of court cases dealing with racial discrimination, despite information that such incidents persist in the State party. The Committee also regrets that the statistics provided by the State party on complaints of racial

or ethnic-based discrimination submitted to national human rights and equality bodies reveal that the bulk of complaints were not referred to the Equal Opportunities Tribunal or not followed up and that information on effective remedies provided to victims of racial discrimination is absent (arts. 4 and 6).

19. **Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee reminds the State party that the absence of complaints or legal proceedings brought by victims of racial discrimination can be indicative of legislation that is insufficiently specific, a lack of awareness of available remedies, lack of confidence in judicial and non-judicial redress, or an unwillingness on the part of the authorities or institutions to initiate proceedings. The Committee recommends that the State party take all steps necessary, including by undertaking awareness-raising campaigns on the non-judicial avenues for submitting complaints, such as the Ombudsman, the Equal Opportunities Commission and the National Commission for Human Rights; increasing public trust in State authorities and institutions; and facilitating access to justice by all groups covered by the Convention. Finally, the Committee requests that the State party include disaggregated data on such complaints and their results in its next periodic report.**

Hate speech and racial profiling

20. The Committee is concerned about incidents of stereotyping and stigmatization of ethnic groups, notably the Creoles, and cases of hate speech against them on social media and by public and political figures. The Committee is also concerned about incidents of racial profiling by the police, notably in the form of unlawful checks, searches and detention of Creole individuals (arts. 2 and 4–6).

21. **Recalling its general recommendation No. 35 (2013) on combating racist hate speech, the Committee urges the State party to:**

(a) **Strengthen its efforts, including through education and awareness-raising campaigns, to combat ethnic or racial stereotypes and stigma with a view to promoting diversity and understanding;**

(b) **Take the necessary measures to combat racist media coverage and incidents of hate speech committed by politicians and ensure that such cases are thoroughly investigated and, where appropriate, sanctions imposed;**

(c) **Put an end to the practice of racial profiling by the police, undertake effective investigations into all allegations of racial profiling, hold those responsible accountable and provide effective remedies to victims;**

(d) **Develop training programmes on racial discrimination for law enforcement officers, including the police, prosecutors and the judiciary, including on racial profiling and on proper methods for identifying, registering, investigating and prosecuting racist hate crimes and speech.**

Prison population

22. The Committee notes that the State party does not have statistical information disaggregated by ethnic groups on its prison population.

23. **Bearing in mind the Committee's general recommendation No. 31, the Committee requests the State party to provide, in its next periodic report, statistics disaggregated by ethnicity of the population in the judicial and prison system.**

Public and political participation

24. The Committee notes the ongoing electoral reforms and that the political system does not exclude by law any group from participation. It remains, however, concerned that political participation is not reflective of the various components of the State party's population and that political participation and representation in the various State party bodies are highly influenced by a person's ethnicity (arts. 2 and 5).

25. **The Committee recommends that the State party expedite the process of electoral reform and reiterates its previous recommendation to effectively address obstacles to participation in political life by, and adequate representation of, ethnic groups (see CERD/C/MUS/CO/15-19, para. 18). The Committee requests the State party to provide in its next periodic report statistics, disaggregated by, among others, ethnic origin and sex, on political representation in the Government, the parliament, the judiciary and law enforcement. The Committee encourages the State party to continue its efforts for the active participation of all segments of society at all levels of public life.**

Creoles

26. The Committee is concerned that the Creoles, including those living on Agaléga and Rodrigues Islands, face de facto discrimination in all walks of life and remain disadvantaged in the enjoyment of human rights. In particular, the Creoles are disproportionately vulnerable to poverty and have limited access to employment, housing, health care and education. The Committee is also concerned that measures taken by the State party and by the Equal Opportunities Commission have had a limited impact on improving the socioeconomic situation of the Creoles and about the lack of measures specifically targeted at improving their situation (arts. 2, 5 and 6).

27. **The Committee urges the State party to adopt and implement, with the participation of representatives of the Creoles, a well-resourced strategy to address the deep-rooted discrimination faced by the Creoles, including those living on Agaléga and Rodrigues Islands. The Committee also recommends that the State party assess the effectiveness of the measures taken, and design and implement other measures, including special measures, in close collaboration with the communities concerned and relevant civil society organizations, to ensure that the Creoles have effective access to employment, adequate housing, health-care services and quality inclusive education. The Committee requests the State party to take into account its general recommendations No. 34 (2011) on racial discrimination against people of African descent and No. 32.**

Creole language

28. The Committee notes with satisfaction the measures taken to promote the use of the Creole language. It remains, however, concerned that it still does not enjoy official status, despite being the common language spoken by most Mauritians and taught at schools (art. 5).

29. **The Committee recommends that the State party take the necessary measures to confer the status of national language on the Creole language, with a view to facilitating its use in the administration, judicial and education systems, and preventing the social exclusion of those who are Creole-speaking only.**

Situation of the Chagossians

30. The Committee notes the information about the measures taken by the State party to address the plight of the Chagossians, including at international forums, in collaboration with the Chagossian community. It regrets, however, the limited information provided on the measures taken to improve the living conditions of the Chagossians residing on the mainland of Mauritius and the impact of those measures (art. 5)

31. **The Committee recommends that the State party continue its efforts to facilitate the return of the Chagossians to their original homes, guaranteeing the active participation of the Chagossian community in the actions taken by the State in that regard. At the same time, the State party should intensify its efforts to improve the living conditions of those Chagossians residing on the mainland of Mauritius and report on such measures and their results in its next periodic report.**

Migrant workers

32. The Committee is concerned that, despite some measures taken by the State party, the working and living conditions of migrant workers remain inadequate and are reportedly characterized by excessive working hours, passport confiscation, underpayment of wages, substandard living conditions and a lack of defined job titles. The Committee is moreover concerned about information that exploitative employers are not prosecuted (arts. 2 and 5).

33. **The Committee recommends that the State party take effective measures to improve the working and living conditions of migrant workers, including through developing a mechanism to monitor the processes related to their recruitment, intensifying awareness-raising campaigns among migrant workers about their rights and increasing labour inspection activities at workplaces that are likely to engage such workers. To that end, the State party should ensure that the inspection and enforcement section within the Ministry of Labour is equipped with the resources necessary to discharge its functions effectively. The State party should also step up its efforts to investigate allegations of abuse and exploitation of migrant workers, including by facilitating victims' access to justice, such as the industrial court, among other adjudication avenues, with a view to bringing alleged perpetrators to justice and providing victims with effective remedies. The Committee requests the State party to include relevant statistical data in its next periodic report.**

Trafficking in persons

34. The Committee is concerned that, despite the State party's efforts, trafficking in persons, notably of migrants for sexual and labour exploitation purposes, and the sale of children, remain widespread and that the rate of investigations, prosecutions and convictions under the Trafficking in Persons Act (2009) and other related legislation remains very low (arts. 2 and 5).

35. **The Committee recommends that the State party intensify its efforts to prevent, combat and deter incidents of trafficking in persons, including by adopting the draft action plan to combat trafficking in persons. It also recommends that the State party (a) strictly implement its domestic legal framework in relation to trafficking in persons, in particular the Trafficking in Persons Act; (b) ensure that suspected cases of trafficking in persons are duly investigated; (c) swiftly bring alleged perpetrators to justice and, if convicted, punish them with adequate sanctions; and (d) redouble its efforts to identify victims and provide them with effective remedies, appropriate protection and assistance, including access to shelters.**

D. Other recommendations

Ratification of other treaties

36. **Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the International Convention for the Protection of all Persons from Enforced Disappearance.**

Follow-up to the Durban Declaration and Programme of Action

37. **In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference held in Geneva in April 2009. The Committee requests that the State**

party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

38. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in the framework of the International Decade for People of African Descent, taking into account the Committee's general recommendation No. 34.**

Consultations with civil society

39. **The Committee recommends that the State party consult and increase its dialogue with civil society organizations concerned with human rights protection, in particular those working to combat racial discrimination, in the preparation of the next periodic report and in follow-up to the present concluding observations.**

Declaration under article 14 of the Convention

40. **The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the Committee's competence to receive and consider individual communications.**

Amendment to article 8 of the Convention

41. **The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.**

Follow-up to the present concluding observations

42. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 31 and 33 above.**

Paragraphs of particular importance

43. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 7, 27 and 35 above, and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.**

Dissemination of information

44. **The Committee recommends that the State party's reports be made readily available to and accessible by the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.**

Preparation of the next periodic report

45. **The Committee recommends that the State party submit its combined twenty-fourth and twenty-fifth periodic reports, as a single document, by 29 June 2021, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**